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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,599	07/24/2003	Stephen M. Ruff	4038-0117P	7942

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EXAMINER

PATTERSON, MARIE D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/625,599	Applicant(s) RUFF, STEPHEN M.	
	Examiner Marie Patterson	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/24/03</u> . | 6) <input type="checkbox"/> Other: ____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flap with a button as claimed in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Claims 6, 7, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 7, 11, and 12 are solely functional and do not provide any additional structure, also, they are functional, indefinite, and incomplete because they contain functional language not supported by recitation in the claims of sufficient structure to warrant the presence of such language (MPEP 2114). It is not clear what structural limitations applicant intends to encompass with such language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5-8, 10-12, and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ruff (5,921,008).

Ruff shows a shoe with a sole (25), a compartment (22), a drawer (40), and an elastic thread (46) as claimed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 7, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruff in view of Cohen (2840437).

Ruff as described above shows a shoe with a drawer substantially as claimed except for the exact location of the elastic thread element. Cohen teaches providing an elastic thread element (17) attached to the rear wall of a drawer (14) to retain the drawer in a compartment. It would have been obvious to attach an elastic thread as taught by Cohen in the drawer and shoe of Ruff to retain the drawer without the retaining means being visible when the drawer is in the closed position.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruff in view of either Goldston (5692324) or Martin (2478411).

Ruff shows a shoe with a drawer substantially as claimed except for tapering the drawer. Goldston teaches tapering the inserting end of a drawer element (tip ends of element 52 shown in figure 2) to facilitate inserting the drawer into the compartment in the sole. Martin teaches forming a drawer in a tapered shape (24) to fit into a compartment in a sole with a wedge styled heel. It would have been obvious to taper the drawer as taught by Goldston to facilitate insertion or as taught by Martin to fit a wedge styled heel in the shoe of Ruff for ease of insertion or for different style.

8. Claims 15-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruff in view of Wagner (5231776).

Ruff shows a shoe with a drawer substantially as claimed except for dividing walls in the drawer. Wagner teaches the well known and conventional practice of providing dividing walls (4) within a container portion to divide the portion into smaller containing portions. It would have been obvious to provide interior dividing walls as taught by Wagner and as is well known and conventional in the drawer in the shoe of Ruff to evenly distribute the weight of the articles, to organize articles, etc..

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 15-17 and 19 above, and further in view of Cohen (2840437).

Ruff as modified above shows a shoe with a drawer substantially as claimed except for the exact location of the elastic thread element. Cohen teaches providing an elastic thread element (17) attached to the rear wall of a drawer (14) to retain the drawer in a compartment. It would have been obvious to attach an elastic thread as taught by Cohen in the drawer and shoe of Ruff as modified above to retain the drawer without the retaining means being visible when the drawer is in the closed position..

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 15-17 and 19 above, and further in view of Potts (6094844).

Ruff as modified above shows a shoe with a drawer substantially as claimed except for a flap on the drawer. Potts teaches providing a cover flap (64) on a drawer (36). Official notice is taken that it is well known and conventional to use buttons to secure flaps in a closed position. It would have been obvious to provide a cover flap as taught

Art Unit: 3728

by Potts and to provide a closure button as is well known and conventional in the shoe with a drawer of Ruff to prevent items from falling out during removal of the drawer from the sole.

1. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**. For applicant's convenience, the Group Technological Center FAX number is (703) 872-9306. (Note that the Examiner **cannot** confirm receipt of faxes) Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries only concerning the **merits** of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.



Marie Patterson
Primary Examiner
Art Unit 3728